

Submitted by
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behalf of the Elder Law
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BACKGROUND ON HB 4013, introduced by Rep. Kurt Heise

Status: Introduced on January 22, 2013 and referred to the House Financial Liability Committee. The bill amends Section 106 of the Social Welfare Act to establish the use of a pooled special needs trust.

Contents of HB 4013: The legislation requires the establishment of rules, regulations and policies to permit individuals who are disabled and ages 65 or older to set up pooled special needs trusts in Michigan without penalty. It outlines who may enter into a pooled trust and its criteria, limits use of trust funds to the sole benefit of the beneficiary, and stipulates what happens to remaining assets after the beneficiary is deceased. The bill limits who can be trustees to non-profit charities (501(c)(3)).

Why the bill is needed: Federal law requires states to provide access to pooled trusts for disabled individuals under 65 but is merely permissive regarding access for older individuals. Use of pooled trusts can protect elderly persons with disabilities without family members to help them with the investment and beneficial use of their funds. A pooled trust also can protect individuals who may have family members who are self-serving. Furthermore, by pooling the assets of a number of individuals, the costs of management and investment are reduced, allowing funds to last longer. Access to funds in a pooled trust can allow disabled individuals to remain safely in their own homes longer because they can afford ancillary services. For those whose needs require nursing home care, access to some funds permits them greater independence and can pay for medical or dental treatment not otherwise covered.

Who would benefit: Individuals 65 or older with disabilities. Typically individuals who utilize pooled trusts have modest means and wish to protect sums ranging from \$10,000 to \$20,000. Wealthier individuals have other means at their disposal and rarely use pooled trusts.

What happens to money in a pooled trust after a beneficiary is deceased: If family members want to provide money from the trust to heirs, they must first fully reimburse the state's Medicaid agency before they can have access to the remainder. Otherwise, consistent with Congressional intent, what is left remains with the charity managing the trust. Typically very little remains once the beneficiary has deceased, and most families leave the remainder with the charity to benefit other individuals.

Who are these charities: In Michigan fewer than 10 charities operate such trusts, including Hope Network, Elder Law of Michigan and Spring Hill Housing Corporation.

What other states do: Seventeen other states currently permit individuals 65 and older to have the protection of a pooled trust.